

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Frank HENGLEIN, *et al.*

Date: October 30, 2008

Serial No.: 10/584,691

International Application No.: PCT/EP2004/14663

International Filing Date: December 23, 2004

For: METAL PIGMENTS COMPRISING A CROSS-LINKABLE BINDING AGENT COATING COMPOSITION, METHOD FOR THE PRODUCTION OF COATED METAL PIGMENTS AND USE THEREOF

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VIA EFS-WEB

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

**PETITION TO SET ASIDE NOTICE OF ABANDONMENT**

Sir:

In response to a Status Inquiry Letter filed July 14, 2008 by applicants' representatives concerning the above-identified application, a Communication dated August 22, 2008 was received from the Patent and Trademark Office. The Communication stated that the application was deemed by the Office to be abandoned due to an alleged failure to timely file a proper reply to a, "Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated /Elected Office (DO/EO/US) (Form PCT/DO/EO/905" mailed 21 March 2007. Provided as attachments to the Office Communication were a copy of the Form PCT/DO/EO/905 together with a "Notification of Abandonment" (Form PCT/DO/EO/909) mailed by the Office on 26 June 2008. A copy of the August 22, 2008 Office Communication (with attachments) is provided herewith as Attachment A to this Petition.

Upon receipt of the August 22<sup>nd</sup> Communication, we examined our file concerning this matter and found that the "Notification of Abandonment" dated June 26, 2008 from the Patent Office was never received at our office. Thus, the 22 August 2008 Communication was the first notification

received by us informing us that the Patent and Trademark Office deemed the application to be abandoned. The Notice of Abandonment is in error for the reasons set forth below.

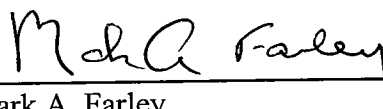
Following receipt of the Notice of Missing Requirements, to which a response was due by May 21, 2007, applicants' representatives mailed to the Patent and Trademark Office a "Response to Notification of Missing Requirements" on May 17, 2007, i.e., prior to the due date for response. That response was received by the Patent Office on May 22, 2007. A copy of applicants' response dated and mailed on May 17, 2007 is enclosed as Attachment B to this Petition. Also enclosed, as Attachment C hereto, is a copy of both sides of the return receipt acknowledgment postcard that was date stamped by the Patent and Trademark Office on 22 May, 2007 acknowledging receipt of applicants' response. The stamped postcard was thereafter received at our office on May 30, 2007 as indicated by the date stamp on the front of the card.

Accordingly, since the Response to Notification of Missing Requirements was timely filed and received by the U.S. Patent and Trademark Office, the holding of abandonment of this application should be set aside.

No fee accompanies this Petition because the U.S. Patent and Trademark Office has committed an error and the Notification of Abandonment should be set aside. In the event the actual fee is greater than the payment submitted or is inadvertently not enclosed, or if any additional fee due during the prosecution of this application is not paid, the Patent Office is authorized to charge the underpayment to Deposit Account No. 15-0700.

THIS CORRESPONDENCE IS BEING  
SUBMITTED ELECTRONICALLY  
THROUGH THE PATENT AND  
TRADEMARK OFFICE EFS FILING  
SYSTEM ON October 30, 2008.

Respectfully submitted,



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